



Comptroller General  
of the United States

Washington, D.C. 20548

*Ms. Shimamura*

## Decision

**Matter of:** Servrite International, Ltd.

**File:** B-241942.2

**Date:** January 29, 1991

David M. Eppsteiner, Esq., McKenna & Cuneo, for the protester.  
John A. Dodds, Esq., Office of the General Counsel, United States Air Force, for the agency.  
Amy Shimamura, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Protest that allegedly proprietary information was disclosed to competitors, protested over a month after the protester knew of the disclosure, is untimely filed under the General Accounting Office Bid Protest Regulations.
2. Protest that competitors engaged in improper collusive bidding in violation of Anti-trust laws is not for consideration by the General Accounting Office, but rather is for consideration of contracting officer and Department of Justice.

### DECISION

Servrite International, Ltd., the incumbent contractor, protests the Department of the Air Force's release of allegedly proprietary information to its competitors pursuant to Freedom of Information Act (FOIA) requests during the conduct of the procurement under request for proposals (RFP) No. F62321-90-R-0093. Servrite also contends that there may have been collusion between its competitors.

We dismiss the protest.

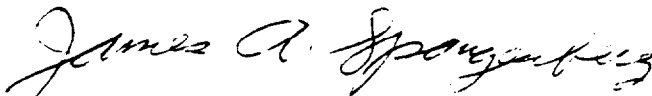
Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules protests not based upon alleged improprieties in a solicitation must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1990). Here, the record indicates that on November 20, 1990, the protester knew the basis of its protest--that documents released to its competitors pursuant to FOIA requests contained allegedly

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proprietary information.<sup>1/</sup> Servrite's protest, filed on January 8, 1991, more than 10 days after the basis of protest was known, therefore is untimely.

Servrite's allegation that its two competitors may have colluded on prices during the conduct of the procurement in violation of Anti-trust laws is also dismissed. This issue is a matter for consideration by the contracting officer in the context of determining the responsibility of a bidder, see Wagster Contracting, B-229060, Sept. 17, 1987, 87-2 CPD ¶ 271, and by the Department of Justice; and is not for consideration under our bid protest function. See Incore, Inc., B-236997, Oct. 13, 1989, 89-2 CPD ¶ 354. While Servrite contends the contracting officer should have further investigated the matter and referred it to the Department of Justice, there is nothing that would prevent a protester from asking that Department to review the matter. See Wagster Contracting, B-229060, supra.

The protest is dismissed.



James A. Spangenberg  
Assistant General Counsel

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<sup>1/</sup> Servrite wrote a letter to the Air Force dated November 20, 1990, questioning the release of information under the FOIA.